

that on the 1st of July 1824 a *feri facias* was issued on this judgment, from the Court of Appeals; and on the 16th of August following this defendant *Brown*, being then sheriff of Kent county, levied it on a tract of land, the property of *Jesse Jones*; that *Jesse Jones*, after having made a partial payment to this sheriff, died in the month of August 1825; that after his death the lands which had been so taken in execution were, on the 3d of September 1825, sold by this sheriff *Brown*, subject to the dower of the widow of the late *David Jones*, and of the widow of the late *Jesse Jones*; that from the proceeds of the sale, this sheriff *Brown* had paid the whole amount due to *Dawson* with the costs; and had retained to the amount of his own poundage fees; and also the sum of \$65 50 for the payment of taxes and officers' fees placed in his hands for collection, leaving a balance in his hands of \$1451 38.

Upon all which the plaintiffs by their bill prayed, that the land of which *Jesse Jones* died seized might be sold; that the proceeds thereof, with the balance remaining in the hands of the defendant *Brown*, might be paid into the hands of a trustee appointed by this court, to be applied, under its direction, to the payment of their debts, and such other claims, if any, as might be due from the intestate *Jesse Jones*; and that they might have such other relief as was suited to the nature of their case.

The defendants *Spencer* and *Brown* each put in a separate answer; the infant defendants answered jointly by their guardian; and all of them admitted the truth of the allegations of the bill.

16th July, 1827.—BLAND, Chancellor.—This case standing ready for hearing without opposition from the defendants, the solicitor of the plaintiffs was fully heard, and the proceedings read and considered.

The peculiar nature of this case seems to require a more than usually attentive consideration. Putting aside so much of it as relates to the small parcel of land of which the intestate died seized, about which there can be no difficulty; this is the case of a creditors' bill, in which it appears, that the real estate of the debtor had been taken in execution, during his lifetime, and sold after his death, leaving a balance, which even yet remains in the hands of the sheriff whose official term must have since expired, and who has been brought here as a defendant, unassociated with any personal representative of the intestate. These circumstances present a case in which it becomes necessary to determine the extent of the power of the sheriff to follow out, after the death of the defendant,